

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ORNAN NWANSI, an individual

Plaintiff,

vs.

DOWNEY SAVINGS AND LOAN
ASSOCIATION, INC.; H.I.S. LOANS AND
REAL ESTATE, INC., d.b.a. H.I.S. LOANS
AND REAL ESTATE COMPANY; DOES 1
through 100, inclusive,

Defendants.

Case No.: C-06-5345 MEJ

**AMENDED CASE MANAGEMENT
ORDER**

Judge: Hon. Maria-Elena James
Complaint filed: August 30, 2006

The parties, by and through their counsel of record, have stipulated to amend the Case Management Order for certain pertinent cut-off and trial dates. PURSUANT TO STIPULATION, the following is so ordered:

Sections A through H shall remain unchanged from the Court's January 17, 2007 Case Management Order unless otherwise previously amended by the Court' April 2, 2007 Order or May 4, 2007 Order.

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I. Dispositive Motions:

1. Pursuant to Civil L.R. 7-2, all dispositive motions shall be filed, served and noticed by **November 8, 2007**. The parties shall file a joint statement of undisputed facts pursuant to Civil L.R. 56-2(b) when filing a motion for summary judgment or summary adjudication.
2. The Court shall hear dispositive motions on **December 13, 2007** at 10:00 a.m. in Courtroom B, 15th Floor of the Federal Building, located at 450 Golden Gate Avenue, San Francisco, California.

J. Exchange and filing of Trial Papers:

1. By **February 8, 2008**, lead counsel who will try the case shall meet and confer with respect to the preparation and content of the joint pretrial conference statement and shall exchange (but not file or lodge) the papers described in paragraph 2 below.
2. By **February 11, 2008**, counsel shall file the papers described in Federal Rule of Civil Procedure 26(a)(3) and a joint pretrial conference statement including the following:
 - (A) Substance of the Action: A brief description of the substance of claims and defenses which remain to be decided.
 - (B) Relief Prayed: A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of damages.
 - (C) Undisputed Facts: A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.
 - (D) Disputed Factual Issues: A plain and concise statement of all disputed factual issues which remain to be decided.
 - (E) Agreed Statement: A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(F) Stipulations: A statement of stipulations requested or proposed for pretrial or trial purposes.

(G) Witness list: A list of all witnesses to be called for trial. The parties shall submit a page-length detailed summary of the substance of the proposed testimony of each witness, which shall also specify to which disputed fact the testimony relates and an estimate of the time required for direct and cross examination of each prospective witness.

(H) Exhibit list: A list of all exhibits to be offered at trial. The exhibit list shall list each proposed exhibit by its number or alphabetical letter, description and sponsoring witness. All documents shall be authenticated prior to trial.

(I) Estimated Time of Trial: An estimate of the number of hours needed for the presentation of each party's case.

(J) Settlement: A statement summarizing the status of the parties' settlement negotiations.

No party shall be permitted to offer any witness or exhibit in its case in chief that is not disclosed in its witness or exhibit list without leave of the Court for good cause shown.

3. Motions *in limine*: Counsel are directed to meet and confer to resolve any evidentiary disputes prior to filing motions in limine. Any motions *in limine* shall be filed **February 11, 2008**. Any Opposition to motions *in limine* shall be filed **February 18, 2008**. These matters will be deemed submitted on the papers without oral argument, unless the Court orders otherwise.
4. Trial Briefs: Counsel shall file trial briefs setting forth the applicable legal standard, pursuant to Ninth Circuit authority, regarding all significant disputed issues of law, including foreseeable procedural and evidentiary issues by **March 6, 2008**.
5. Joint Proposed Voir Dire (Jury Trial Only): Counsel should submit a **joint** set of requested voir dire questions to be posed by the Court by **March 6, 2008**. Any voir dire questions on which counsel cannot agree shall be submitted separately by **March**

1 **6, 2008.** Counsel will be allowed brief follow-up voir dire after the Court's
 2 questioning.

- 3 6. Joint Proposed Jury Instructions (Jury Trial Only): Jury instructions § 1.01 through §
 4 2.02 and § 3.01 through § 3.15 from the Manual of Model Civil Jury Instructions for
 5 the Ninth Circuit (1998 Edition) will be given absent objection. Counsel shall submit
 6 a joint set of additional proposed jury instructions by **March 6, 2008.** The instructions
 7 shall be ordered in a logical sequence, together with a table of contents. Any
 8 instruction on which counsel cannot agree shall be marked as "disputed," and shall be
 9 included within the jointly submitted instructions and accompanying table of contents,
 10 in the place where the party proposing the instruction believes it should be given.
 11 Argument and authority for and against each disputed instruction shall be included as
 12 part of the joint submission, on separate sheets directly following the disputed
 13 instruction. The Court prefers that all jury instructions conform to the Manual of
 14 Model Civil Jury Instructions for the Ninth Circuit. If possible, counsel shall deliver
 15 to the Courtroom Deputy a copy of their joint proposed jury instructions on a computer
 16 disk in WordPerfect format. The disk label shall include the name of the parties, the
 17 case number and be entitled "Proposed Jury Instructions."

18 At the close of Defendant's case in chief, the Court shall hear oral argument on the
 19 disputed jury instructions and will then render its rulings.

- 20 7. Proposed Verdict Forms, Joint or Separate (Jury Trial Only): Counsel shall submit any
 21 joint proposed verdict forms and shall submit their separate verdict forms by **March 6,**
 22 **2008** (30 days prior to trial).

23 Whenever possible, counsel shall deliver to the Courtroom Deputy a copy of their joint
 24 proposed verdict forms on a computer disk in WordPerfect. The disk label shall
 25 include the name of the parties, the case number and be entitled "Proposed Verdict
 26 Forms."

- 27 8. Proposed Findings of Fact and Conclusions of Law (Court Trial Only): Counsel shall
 28 submit joint proposed findings of facts by **March 6, 2008** (30 days prior to trial).

Counsel shall submit separately a copy of their disputed findings of fact and conclusions of law by **March 6, 2008** (30 days prior to trial).

Whenever possible, counsel shall deliver to the Courtroom Deputy a copy of their joint proposed findings of fact on a computer disk in WordPerfect. The disk label shall include the name of the parties, the case number and be entitled "Joint Proposed Findings of Facts."

K. Pretrial Conference:

1. On **March 6, 2008** the Court shall hold a pretrial conference at 10:00 a.m. in Courtroom B, 15th Floor of the Federal Building, located at 450 Golden Gate Avenue, San Francisco, California. Lead counsel who will try the case must attend the pretrial conference. The purpose of the pretrial conference is for the Court to rule on any issues raised in the final pretrial conference statement, motions *in limine*, and to discuss the trial of the case.

L. Final Pretrial Conference:

1. On **March 27, 2008** the Court shall hold a final pretrial conference to address any outstanding trial issues.

M. Trial Date:

1. The trial shall commence [with jury selection taking place] on **March 31, 2008** (Trial schedule: Monday through Thursday at 1:30 p.m. to 5:00 p.m.). The trial shall last five days.
2. For any documents, including the deposition of a witness testifying at trial, which will be shown or presented to a witness **but which will not be admitted into evidence**, counsel shall bring the original plus three clean copies of the documents. The original document will be handed to the Court during testimony, and the clean copies of the document will be given to the witness during the examination and to opposing counsel.

3. Counsel shall maintain their own exhibits during trial. Exhibits are to be premarked with exhibit tags stapled to the upper lefthand corner. If a photo or chart is being used as an exhibit, the exhibit tag should be placed on the back side of the exhibit. **The Court will only admit premarked exhibits which were listed on the earlier filed exhibit list.**

Plaintiff shall mark the exhibits numerically; Defendant shall mark the exhibits alphabetically. The exhibit markers shall each contain the name and number of the case, the number or alphabetical letter of the exhibit, and blank spaces to accommodate the date admitted and the Deputy Clerk's initials.

Sections N through Q shall remain unchanged from the Court's January 17, 2007 Case Management Order.

THE PARTIES HEREBY STIPULATE to the entry of the [PROPOSED] AMENDED CASE MANAGEMENT ORDER concurrently filed herewith.

DATED: October 17, 2007

By: /s/ Peter W. Clerides

Peter W. Clerides

Attorney for Plaintiff, Ornan Nwansi

DATED: October 17, 2007

OFFICE OF THE GENERAL COUNSEL

By: /s/ Christine M. Humphries

Christine M. Humphries

Attorneys for Defendant,

Downey Savings and Loan Association, F.A.

1 DATED: October 17, 2007

NIELSEN, HALEY & ABBOT, LLP

2
3
4 By: /s/ Stephen W. Cusick

5 Stephen W. Cusick

6 Attorneys for Defendant,

7 H.I.S. Loans and Real Estate, Inc., d.b.a.

8 H.I.S. Loans and Real Estate Company

9
10 IT IS SO ORDERED.

11 DATED: November 6, 2007

12
13 Judge Maria-Elena James
14 United States District Judge

